COMMENTS
By
INTERSTATE OIL AND GAS COMPACT COMMISSION
For The
ENVIRONMENTAL PROTECTION AGENCY PUBLIC MEETING
On
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER PERMIT COVERAGE FOR SMALL OIL AND GAS CONSTRUCTION ACTIVITIES
In
DALLAS, TEXAS
MAY 10, 2005

INTERSTATE OIL AND GAS COMPACT COMMISSION NPDES PHASE II STORM WATER DISCHARGE WORKGROUP REPORT
On
Guidelines for Storm Water Discharge Management
For
Oil and Gas Exploration and Production Clearing, Grading, and Excavating Activities

My name is Mark Carl and I am the Federal Projects Director for the Interstate Oil and Gas Compact Commission (IOGCC). In May 2003 the Interstate Oil and Gas Compact Commission, with funds provided by the Department of Energy, National Environmental Technology Laboratory, tasked a Storm Water Workgroup to determine how to best meet EPA's needs regarding NPDES storm water management practices and to develop appropriate guidance based on existing state programs. In today's presentation I am only discussing the findings and recommendations of the members of this Workgroup as the report has not been brought up for approval by the IOGCC membership as a whole.

Workgroup members included Robert Krehbiel, Kansas Corporation Commissioner, Linda Guthrie, Administrative Aide to Oklahoma Corporation Commission Chair Denise Bode, Dr. Robert Lee, New Mexico Oil Conservation Commissioner and Director of Petroleum Recovery Research Center and Professor of Petroleum and Chemical Engineering for New Mexico Institute of Minerals and Technology, Steven Seni, Assistant Director of Environmental Services for the Texas Railroad Commission, Oil and Gas Division.

The Workgroup included sections in their report to address the issue of current state water protection storm water programs and examine the appropriateness of developing guidance documents based on those programs.

The first section outlines:

Existing State Storm Water Programs

The Workgroup believed that developing specific storm water management practices would be impractical because of the diversity of site-specific factors that need to be considered. The Workgroup remained convinced the states are appropriately managing storm water discharges.

The Workgroup evaluated the scope and effectiveness of existing state water protection programs by (1) employing a web-based search for state-based management practices for storm water, soil erosion, and sediment control, (2) surveying management practices for storm water, soil erosion, and sediment control in IOGCC member states and (3) surveying the extent of storm water related incidents in Kansas, New Mexico, Oklahoma, and Texas, which comprised 45% of onshore drilling activity in the US during the last three years.

The second section discusses:

Existing State Guidelines for Storm water

The Workgroup found there were numerous manuals and guidelines that describe management practices for storm water, soil erosion, and sediment control among the states. The workgroup also found significant differences exist between management practices for large, long-lived commercial, residential, or industrial construction sites and those designed for exploration and production site preparation activities. Some of the differences they found were:

- Commercial/industrial/residential construction activities typically last many months or years, and disturb the ground during construction. Oil and gas exploration and production site preparation activity lasts a few weeks and the area is stabilized as quickly as possible.
- Unlike commercial/industrial/residential construction, typical oil and gas activities do not disturb large contiguous areas that enhance storm water runoff and promote sediment erosion.
- Oil and gas activities are typically situated in rural areas accessed by existing dirt roads and surrounded by private cultivated agriculture land which is exempt from the requirements, or ranch land.

The third section discusses:

Survey of State Program Elements Relevant to Storm Water

The IOGCC developed and submitted a questionnaire to all 30 IOGCC member states to solicit information regarding state program elements relevant to storm water management practices. The survey revealed that current storm water regulations and practices are adequate across the producing states. Four states reported having significant problems with storm water discharges from exploration and production site preparation activities **prior** to the implementation of additional regulations. Those states —Louisiana, West Virginia, Pennsylvania, and Kentucky—could be characterized as states having relatively high rainfall and, except for Louisiana, mountainous topography. Twenty-six states affirmed

that their oil and gas regulations, or regulations of other agencies within their states, are currently adequate to address EPA NPDES storm water-discharge concerns.

The fourth section discusses:

Survey of Storm Water Incidents

In order for the Workgroup to better determine if there is a significant pollution problem with storm water discharges, they contacted district staff of the regulatory agencies in their respective states to determine the number of pollution incidences or complaints. From 2000 through 2003, the number of incidences in all 4 states averaged approximately 2 per state per year. Clearly, the number of incidents associated with storm water discharges is small when compared to the amount of exploration and production activity in these states which totaled 37,750 wells drilled over the past three years.

CONCLUSIONS

The Workgroup did not find justification for requiring a storm water discharge permit for small exploration site activities. They also found that the Federal NPDES permitting requirements are onerous and inappropriate given the level of risk to the environment and it is not feasible for a single standard to fit the diverse requirements for appropriate storm water discharge management throughout the United States. States have been managing discharges at large sites and there is no indication of a significant threat to the environment from storm water discharges by small exploration and production site activities.

Additionally, In regard to threatened and endangered species and historic and archeological site issues the Workgroup found the evaluation of, and procedures associated with, determining whether or not a drill site could impact threatened and endangered species or historic and archeological sites is both expensive and time consuming. Approvals would need to be obtained from two additional bureaucracies not otherwise involved in exploration and production permitting. The small and ephemeral footprint of exploration and production site activities does not support the need for extensive surveys for threatened and endangered species and historic and archeological sites without prior indication that such sites are located nearby.

The Workgroups conclusion was that both delegated and existing state programs already sufficiently address these areas and additional federal guidelines are inappropriate and unnecessary and the increased regulatory burden would negatively impact critically needed domestic energy production.